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GARY R. FABIAN

17 May 2004

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Gary R. Fabian

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:
Potts, R. O., et al.

Serial No.: 09/927,773

Art Unit: 1631

Filing Date: 10 August 2001

Examiner: M.A. Moran

Title: METHODS AND DEVICES FOR PREDICTION OF HYPOGLYCEMIC
EVENTS

RESPONSE AND AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is filed in response to the final Office action in the above-referenced application, mailed 24 March 2004. Accompanying this response is a Notice of Appeal with an authorization to charge to Deposit Account No. 03-4058 for the required fee. No further fees are believed due. However, the Commissioner is hereby authorized to charge to Deposit Account No. 03-4058 any fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 which may be required by this paper, with the exception of the payment of the issue fee. Reconsideration of the application in view of the following amendments and remarks is respectfully requested.

This response has been filed within 2 months of the date of the final Office action. Accordingly, the shortened statutory period will expire at 3 months from the date of the final rejection or on the date the advisory action is mailed, whichever is later (see MPEP 706.07(f)). Applicants submit that the present amendment conforms to the revised amendment format requirements. If there are any problems with the format of applicants' amendment, the Examiner is respectfully requested to contact the undersigned.

Introductory Comments

1. Summary of the Office Action.

In the final Office action, the Examiner stated “(a)ll objections and rejections not reiterated below are hereby withdrawn. Claims 1-6 and 10-36 are pending.” (See, final Office action, page 2, first paragraph.) Applicants note that claims 1-7 (not 1-6) and 10-36 are pending.

In the final Office action, dated 24 March 2004:

(a) the Examiner rejected claims 7, 25, and 34 under 35 U.S.C. §112, second paragraph, asserting that the claims are indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. The Examiner asserted that there is insufficient antecedent basis for the limitation “the time interval $n+1$,” and

(b) the Examiner rejected claims 1-7 and 10-36 under 35 U.S.C. §103(a) asserting that the claims are obvious over Kurnik (WO 99/58973) in view of Tamada, et al. (JAMA 282(19):1839-1844, 17 November 1999).

These rejections are believed to be overcome in part by the amendments and are otherwise traversed for reasons discussed below.

2. Overview of the Amendments to the Claims.

Claims 1-7 and 10-36 are pending in the application. Claims 7, 25, 26, and 34 are amended without prejudice or disclaimer. Amendment of these claims is not intended to be an acquiescence in the Office’s assessment of those claims in the 24 March 2004 Communication and applicants expressly reserve the right to bring the subject matter of the original claims again in a subsequent, related application. After entry of this amendment, claims 1-7 and 10-36 are pending.

The amendments to the claims are presented herein below (after the signature page) in the section titled “Amendments to the Claims.”

Support for the amendments to claims 7, 25, and 34 can be found throughout the specification as originally filed, for example, at the following location: page 43, lines 2-5.

Claim 26 is amended to correct an obvious absence of antecedent basis (“said further time interval”) which language has basis earlier in claim 26 and corresponds to the language